

House Bill 488

By: Representatives Momtahan of the 17th, Corbett of the 174th, LaHood of the 175th, Hitchens of the 161st, Harrell of the 106th, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To prevent organized retail crime; to amend Chapter 1 of Title 10 of the Official Code of
2 Georgia Annotated, relating to selling and other trade practices, so as to provide for a
3 definition; to provide for certain recordkeeping and reporting requirements for the sale and
4 purchase of stored value cards; to provide for penalties for failure to comply; to provide for
5 confidentiality; to amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia
6 Annotated, relating to theft, so as to provide for the crimes of organized retail theft and retail
7 merchandise fraud; to provide for penalties for violations; to provide for related matters; to
8 repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
12 trade practices, is amended by revising Article 12, which was previously reserved, as
13 follows:

14 **"ARTICLE 12**

15 10-1-310.

16 (a) As used in this article, the term 'stored value card' means any card, gift card,
17 instrument, or device issued with or without a fee for the use of the cardholder to obtain
18 money, goods, services, or anything else of value. Such term includes, but is not limited
19 to, debit cards issued for use as a stored value card or gift card and an account
20 identification number or symbol used to identify a stored value card. Such term shall not
21 include a prepaid card usable at multiple unaffiliated merchants or at automated teller
22 machines, or both.

23 (b) Any sale or purchase of stored value cards by persons or merchants, other than the
24 issuer or the issuer's authorized agent, including any transaction that occurs in this state or

25 with a person in this state who transacts online, shall require that the appropriate
26 information contained in this Code section be recorded and that a copy of the record be
27 maintained for at least three years.

28 (c) Regardless of the method by which the transaction is conducted, the person or
29 merchant shall record the following information for each transaction:

30 (1) The time, date, and place of the transaction;

31 (2) A complete and accurate description of the stored value card sold or purchased,
32 including, if available, the name of the original issuer, the face value of the stored value
33 card when sold or purchased, the acquired price of the stored value card, and the stored
34 value card serial number;

35 (3) A copy, digital swipe, or scan of a valid government issued identification card, such
36 as a driver's license, state identification card, or military identification card, of the person
37 who purchased the stored value card or the person to whom the stored value card was
38 sold;

39 (4) A fingerprint of the person who sold the stored value card; and

40 (5) A description of the person who sold the stored value card, including the person's full
41 name, current residential address, phone number, height, weight, date of birth, and other
42 identifying marks.

43 (d) If the transaction is completed online, the record shall include:

44 (1) The time, date, and place of the transaction;

45 (2) A complete and accurate description of the stored value card sold or purchased,
46 including, if available, the name of the original issuer, the face value of the stored value
47 card when sold or purchased, the acquired price of the stored value card, and the stored
48 value card serial number;

49 (3) A verified email address of the person from whom the stored value card is sold or
50 purchased;

51 (4) The IP address or digital device identification used to access the website or
52 application of the seller;

53 (5) Data collected about the person who purchased or sold the stored value card,
54 including, but not limited to, the person's name and mailing address used to remit
55 payment; and

56 (6) A token identifier for a validated credit or debit card and billing ZIP Code.

57 (e) County and municipal law enforcement agencies shall notify the merchants known to
58 sell or purchase stored value cards in their respective jurisdictions of the recording and
59 reporting requirements of this Code section. Such notification shall be in writing and shall
60 state the law enforcement agency's policy regarding how the information is to be reported
61 in the applicable jurisdiction and certify that any data collected from the merchant will be

stored in a secure and confidential manner. All records shall be delivered to the appropriate law enforcement agency or its designated reporting data base in an electronic or other report format approved by such agency within 24 hours from the date of the transaction. The information shall be stored on a law enforcement owned, operated, and housed server. Any gift card data base software shall be free for state law enforcement agencies, county and municipal law enforcement agencies, and merchants and persons selling or buying such stored value cards who are reporting.

(f) Any person convicted of a violation of this Code section shall be punished as for a misdemeanor of a high and aggravated nature; provided, however, that, for a merchant to be convicted under this Code section for failure to comply with the recordkeeping or reporting requirements, the applicable county or municipal law enforcement agency shall have first notified the merchant in writing of such recordkeeping and reporting requirements. If the violation is committed by the owner, stockholder, or managing partner of a business selling a stored value card, such violation shall also be a basis for the revocation of the business license of such business.

(g) Any person who knowingly provides false information in response to the recordkeeping or reporting requirements of this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

(h) All information gathered pursuant to this Code section shall remain confidential. If a county or municipal law enforcement agency utilizes a third party, including, but not limited to, a third-party data base or software company, to keep records or to analyze stored value card transactions, the third party shall agree to keep all information confidential and only share the information with law enforcement agencies and the original issuer of the stored value card. Reserved."

SECTION 2.

Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, is amended by adding new Code sections to read as follows:

"16-8-14.2.

(a) A person commits the offense of organized retail theft when such person:

(1) Conspires with another person or persons to appropriate merchandise of a store or retail establishment to his or her own use without paying for such merchandise or to deprive the owner of the merchandise or the value thereof, in whole or in part, and such merchandise is taken from one or more stores or retail establishments over a period of 90 days with the intent to sell such merchandise for monetary or other gain when the merchandise has a value in the aggregate exceeding \$20,000.00 and is placed or is to be

placed in the control of a retail property fence as defined in Code Section 16-8-5.2 or
other person in exchange for consideration; or

(2) Conspires with two or more persons as an organizer, supervisor, financier, leader, or manager to engage for profit in a scheme or course of conduct to effectuate the transfer or sale of property stolen from a store or retail establishment in violation of this Code section.

(b) Thefts of merchandise of a store or retail establishment occurring in more than one county may be aggregated in an alleged violation of this Code section.

(c) A person convicted of a violation of this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than ten years, a fine not to exceed \$50,000.00, or both.

16-8-14.3.

(a) A person commits the offense of retail merchandise fraud when such person exchanges with a store or retail establishment merchandise for cash, a gift card, a merchandise card, or some other item of value when such person knows or has reasonable grounds to believe that such merchandise is stolen property.

(b) A person convicted of violating subsection (a) of this Code section:

(1) If the property which was the subject of the theft exceeded \$24,999.99 in value, shall be punished by imprisonment for not less than one nor more than 20 years;

(2) If the property which was the subject of the theft was at least \$5,000.00 in value but was less than \$25,000.00 in value, shall be punished by imprisonment for not less than one nor more than ten years and, in the discretion of the trial judge, as for a misdemeanor;

(3) If the property which was the subject of the theft was at least \$1,500.01 in value but was less than \$5,000.00 in value, shall be punished by imprisonment for not less than one nor more than five years and, in the discretion of the trial judge, as for a misdemeanor;

(4) If the property which was the subject of the theft was \$1,500.00 or less in value, shall be punished as for a misdemeanor; or

(5) If the person has two prior convictions for a violation of this Code section, upon a third or subsequent conviction, shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than 20 years."

SECTION 3

128 All laws and parts of laws in conflict with this Act are repealed.